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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,793	11/26/2003	Peter Chan	138266SV/YOD GEMS:0251	9097
7590 Patrick S. Yoder FLETCHER YODER P.O. Box 692289 Houston, TX 77269-2289			EXAMINER DOERRLER, WILLIAM CHARLES	
			ART UNIT 3744	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		04/27/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

10/723,793

Applicant(s)

CHAN, PETER

Examiner

William C. Doerrler

Art Unit

3744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13, 20-30 and 32-39 is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-12, 14-17, 31 and 40 is/are rejected.
- 7) ☒ Claim(s) 9, 18 and 19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Giesy et al (2002-0166326).

Giesy et al disclose a device (the tank) having a cryogen for transporting samples. The device is designed to maintain the temperature of the cryogen during transport.

Claims 1 and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Wowk et al (2005/0016198).

Wowk et al disclose a device (the storage container) having a cryogen for transporting samples. Controller 16 maintains the temperature of the device a predetermined range.

Claims 1,2 and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Gershtein et al (6,938,654).

Gershtein et al show a tank which monitors the temperature of the cryogenic contents. This is seen as a device containing cryogen which is monitored to maintain is a predetermined range.

Claims 1,7,14 and 40 are rejected under 35 U.S.C. 102(b) as being anticipated by Jones (3,919,852).

Jones discloses a device having a cryogen (tank 2) with a refrigeration system maintaining the cryogen in liquid form. This keeps the cryogen in a predetermined range in regard to temperature.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-5,8 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over any one of Giesy et al, Wowk et al or Gershtein et al in view of either Schmidtberg et al (2005/0055237) or Coulthard (7,193,512).

Giesy et al, Wowk et al and Gershtein, each disclose applicant's basic inventive concept, a device having a cryogen which maintains a parameter of the cryogen during transport, substantially as claimed with the exception of remotely monitoring the parameter. Schmidtberg et al and Coulthard each show this feature to be old in the sensitive device transportation art. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention from the teaching of either Schmidtberg or Coulthard et al to modify the device with a cryogen of any one of Giesy et al, Wowk et al or Gershtein by adding a remote monitoring system to ensure that the device maintains the parameter within the predetermined range, from a centralized position, to ensure the

state of multiple devices simultaneously from a common control point. In regard to claim 4, adding additional coolant is considered well known in the art, such as adding ice or dry-ice to a train car, to enable shipping distances further than the original amount of coolant will last.

Claims 6,10,11,31 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over any one of Giesy et al, Wowk et al or Gershtein et al in view of Laskaris (4,492,090).

Giesy et al, Wowk et al and Gershtein, each disclose applicant's basic inventive concept, a device having a cryogen which maintains a parameter of the cryogen during transport, substantially as claimed with the exception of transporting an imaging device containing a cryogen. Laskaris shows this feature to be old in the imaging device (an NMR machine) transporting art. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention from the teaching of Laskaris to modify the device with a cryogen of any one of Giesy et al, Wowk et al or Gershtein by using the parameter controls for a cryogen during transport in an imaging device during transport to ensure proper functioning of the imaging device when it arrives at the destination.

Claims 2-5,8,13 and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones in view of either Schmidtberg et al (2005/0055237) or Coulthard (7,193,512).

Jones discloses applicant's basic inventive concept, a device having a cryogen which maintains a parameter of the cryogen using a refrigeration system during transport, substantially as claimed with the exception of remotely monitoring the parameter.

Schmidtberg et al and Coulthard each show this feature to be old in the sensitive device transportation art. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention from the teaching of either Schmidtberg or Coulthard et al to modify the device with a cryogen of Jones by adding a remote monitoring system to ensure that the device maintains the parameter within the predetermined range, from a centralized position, to ensure the state of multiple devices simultaneously from a common control point. In regard to claim 4, adding additional coolant is considered well known in the art, such as adding ice or dry-ice to a train car, to enable shipping distances further than the original amount of coolant will last.

Claims 6,10,11,31 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones in view of Laskaris (4,492,090).

Jones discloses applicant's basic inventive concept, a device having a cryogen which maintains a parameter of the cryogen by using a refrigeration system during transport, substantially as claimed with the exception of transporting an imaging device containing a cryogen. Laskaris shows this feature to be old in the imaging device (an NMR machine) transporting art. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention from the teaching of Laskaris to modify the device with a cryogen of Jones by using the parameter controls for a cryogen during transport in an imaging device during transport to ensure proper functioning of the imaging device when it arrives at the destination.

Art Unit: 3744

***Allowable Subject Matter***

Claims 9,18 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 13,20-30 and 32-39 are allowed.

***Conclusion***

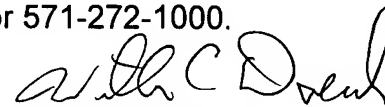
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hasson et al shows a system for monitoring a gas during shipping. Leonard et al shows a system for cryogenically preserving samples for shipping. Livni et al shows a mobile MRI machine. Tyree shows a mobile cryogenic cooler which would be restocked with cryogen during use.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William C. Doerrler whose telephone number is (571) 272-4807. The examiner can normally be reached on Monday-Friday 6:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler can be reached on (571) 272-4834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3744

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



William C Doerrler  
Primary Examiner  
Art Unit 3744

WCD